

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0152P

Gross Income Tax
Fiscal Year Ended 9/30/98

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ISSUE(S)

I. **Tax Administration**— Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed a late filing penalty. Taxpayer protested the penalty on December 20, 1999. The department did not issue a penalty denial letter and the liability reached the collection stages. On February 21, 2000, the taxpayer faxed a letter asking for the penalty waiver and its collection costs. On March 2, 2000 the taxpayer sent a letter to the Legal Division.

Taxpayer states that the accounting personnel who were responsible for the determination of the payment required for the extension for this period made the calculation based on the maximum income tax rate. They were unaware of the tax based on gross receipts, which results in an Indiana tax burden that is significantly higher than that in other states with similar levels of activity. Taxpayer further states that normally it substantially overpays its estimated state tax liability to insure that there is not a late payment penalty and it has taken steps to ensure that the taxes are properly calculated and paid in a timely manner in the future.

I. **Tax Administration**— Penalty

DISCUSSION

Taxpayer was assessed a penalty for failure to pay its tax timely.

Taxpayer's argument that its personnel were unaware of the tax based on gross receipts does not allow a waiver of penalty. Taxpayer's personnel should be aware of the tax consequences in states where it files returns. The Department will expunge the warrants issued in error.

FINDING

Taxpayer's protest is denied.